

1 LABOR CABINET

2 Office of Unemployment Insurance

3 (Amendment)

4 787 KAR 1:310. Claimant profiling.

5 RELATES TO: KRS 194.030(9), 341.350(2), 42 U.S.C. 503(a)(10), (j)

6 STATUTORY AUTHORITY: KRS 336.015, 336.050~~[454B.020]~~, 341.115,

7 341.350(2)(b), 2021 Ky Acts ch. 169 Part 1(I)(7)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the
9 secretary to promulgate administrative regulation necessary to administer KRS Chapter 341. 42
10 U.S.C. 503(a)(10) and 503(j) require states to establish profiling systems to identify unemployment
11 claimants who are likely to exhaust regular benefits for referral to reemployment services, and to
12 hold claimants ineligible to receive unemployment benefits if they fail to participate in
13 reemployment services after having been so identified. KRS 341.350(2)(b) provides that the
14 secretary~~[Secretary of the Education Cabinet]~~ shall establish a profiling system. This
15 administrative regulation establishes conditions, consistent with the provisions of 42 U.S.C.
16 503(a)(10) and (j), under which a claimant shall participate in reemployment services as a
17 condition of receiving benefits.

18

1 Section 1. Definition. "Profiling" means a method by which the secretary shall determine if an
2 unemployment claimant is likely to exhaust benefits.

3 Section 2. Profiling System. (1) Except as provided in subsection (2) of this section, all
4 unemployment claimants shall be subject to profiling as a condition of receiving benefits.

5 (2) A claimant shall be exempted from profiling if the claimant:

6 (a) Is applying for extended benefits or special federal program benefits including Trade
7 Adjustment Assistance and Disaster Unemployment Assistance;

8 (b) Is classified as a "Group B" claimant as established in 787 KAR 1:090, Section 1(2)(b);

9 (c) Is in approved training as provided in KRS 341.350(6);

10 (d) Has weekly pension deductions in excess of the benefit amount; or

11 (e) Is receiving reemployment services through a union hiring hall.

12 (3) The secretary shall utilize a statistical model of worker profiling as the basis for the
13 identification of claimants for referral for reemployment services. The profiling system shall
14 identify a claimant as unlikely to return to his previous industry or occupation through the
15 consideration of employment related variables. These variables shall not include the claimant's
16 age, gender, race, ethnicity or national origin.

17 (4) A claimant shall be profiled when issued a first benefit payment, including a zero
18 amount due to excessive earnings or other reason.

19 (5) A claimant identified by the profiling system as likely to exhaust benefits shall be
20 referred for reemployment services from the Office of Unemployment Insurance [~~Office of~~
21 ~~Employment and Training~~] based on the availability of services. A claimant who is not referred
22 for services within four (4) weeks after identification by the profiling system shall not be referred

1 and shall be considered to have satisfied the requirements of KRS 341.350(2)(b) for the receipt of
2 benefits.

3 Section 3. Eligible dislocated worker. A claimant determined to be an "eligible dislocated
4 worker" under the *Workforce Innovation and Opportunity Act, 29 U.S.C. 3102 et seq.* [~~Workforce~~
5 ~~Investment Act, 29 U.S.C. 2801 et seq.~~], may participate in the profiling system.

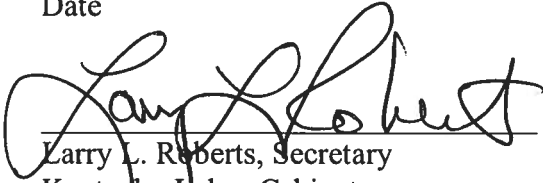
As approved by



Buddy Hoskinson, Executive Director
Office of Unemployment Insurance

6/21/2021

Date



Larry L. Roberts, Secretary
Kentucky Labor Cabinet

6/21/2021

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 27, 2021 at 2:00 (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at <https://us02web.zoom.us/j/88991458931?pwd=eTZYMEo0V3Qydnk0alB3MFFyYmZVUT09>, password 358248 or by telephone at 713-353-0212 or 888-822-7517 (toll free), conference code 278497.

Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2021. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Buddy Hoskinson, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-2199, Facsimile: (502) 564-7850, Email: buddy.hoskinson@ky.gov.

REGULATORY IMPACT AND TIERING STATEMENT

Regulation Number 787 KAR 1:310

Contact Person: Buddy Hoskinson, Telephone: (502) 564-2199, Facsimile: (502) 564-7850,
Email: buddy.hoskinson@ky.gov.

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes conditions, consistent with the provisions of 42 U.S.C. 503(a)(10) and (j), under which a claimant shall participate in reemployment services as a condition of receiving benefits.
 - (b) The necessity of this administrative regulation: This administrative regulation, in conjunction with the provisions of KRS 341.350(2), fulfills the requirements of 42 U.S.C. 503(a)(10).
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 341.115(1) authorizes the secretary to adopt administrative regulations deemed necessary and suitable for the proper administration of KRS Chapter 341. This administrative regulation provides for the fulfillment of the requirement of KRS 341.350(2) for selected claimants to participant in reemployment services.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the bases for determining that a profiled claimant has satisfied the requirement to participate in reemployment services.

- (2) If this is an amendment to an existing regulation, provide a brief summary of:
 - (a) How this amendment will change this existing administrative regulation: This amendment updates statutory authority and federal authority cited in Section 3.
 - (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update statutory references and to update the federal authority cited in section 3.
 - (c) How the amendment conforms to the content of the authorizing statutes: KRS 341.115(1) authorizes the secretary to amend administrative regulations deemed necessary and suitable for the proper administration of KRS Chapter 341. This administrative regulation provides for the fulfillment of the requirement of KRS 341.350(2) for selected claimants to participant in reemployment services.
 - (d) How the amendment will assist in the effective administration of the statutes: This amendment ensures that Section 3 identifies the correct federal statute for where the definition of “eligible dislocated worker” is found.

- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts unemployment insurance claimants who are profiled for reemployment services.

- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are required by this amendment.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this amendment.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The office will provide job employment services to profiled claimants.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: This administrative regulation, as amended, is not anticipated to generate any new or additional costs.
 - (b) On a continuing basis: This administrative regulation, as amended, is not anticipated to generate any new or additional costs.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KRS 341.240 provides for the establishment of the unemployment compensation administration fund and establishes that all of the money in this fund shall be expended solely to defray the cost of the administration of this chapter.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: This administrative regulation, as amended, is not anticipated to generate any increase in fees or funding.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with this administrative regulation.
- (9) TIERING: Is tiering applied? Tiering is not applied. All profiled unemployment insurance claimants are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number 787 KAR 1:310

Contact Person: Buddy Hoskinson, Telephone: (502) 564-2199, Facsimile: (502) 564-7850,
Email: buddy.hoskinson@ky.gov.

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None.
2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation.
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
 - a. How much revenue will the administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?
 - b. How much revenue will the administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?
 - c. How much will it cost to administer this program for the first year?
 - d. How much will it cost to administer this program for subsequent years?

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None.

Expenditures (+/-): None.

Other explanations: